

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

2311 RACING LLC d/b/a 23XI RACING and
FRONT ROW MOTORSPORTS, INC.,

Plaintiffs,

v.

NATIONAL ASSOCIATION FOR STOCK
CAR AUTO RACING, LLC and JAMES
FRANCE,

Defendants.

Civil Action No. 3:24-cv-886-FDW-SCR

PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

Plaintiffs 2311 Racing LLC ("23XI") d/b/a 23XI Racing and Front Row Motorsports, Inc. ("Front Row Motorsports"), by and through their undersigned counsel and pursuant to Federal Rule of Civil Procedure 65, hereby move this Court for entry of an order granting a preliminary injunction in their favor and against Defendants National Association for Stock Car Auto Racing, LLC ("NASCAR") and James France. In support of this Motion, Plaintiffs state as follows:

1. Plaintiff 2311 Racing LLC d/b/a 23XI Racing is a limited liability company organized under the laws of North Carolina, with its principal place of business at 12311 Airspeed Drive, Huntersville, North Carolina 28078.

2. Plaintiff Front Row Motorsports, Inc. is a corporation organized under the laws of Tennessee, with its principal place of business at 1111 Gateway Service Park Road, Morristown, Tennessee 37813. Front Row is registered to transact business in the state of North Carolina.

3. By this motion, Plaintiffs seek preliminary relief from this Court: (i) requiring Defendants to offer two NASCAR Cup Series Charter Member Agreements to 23XI Racing with

the same terms as the NASCAR Cup Series Charter Member Agreements that NASCAR offered to Plaintiffs on September 6, 2024; (ii) requiring Defendants to offer two NASCAR Cup Series Charter Member Agreements to Front Row Motorsports with the same terms as the NASCAR Cup Series Charter Member Agreements that NASCAR offered to Plaintiffs on September 6, 2024; and (iii) enjoining Defendants from enforcing Section 10.3 of any NASCAR Cup Series Charter Member Agreement that is granted, or transferred (pursuant to the pending transactions with Stewart-Haas Racing, LLC), to either Plaintiff as a defense to any antitrust claim that either Plaintiff is pursuing in this action.

4. As set forth in the accompanying memorandum of law and its supporting declarations and exhibits, Plaintiffs are likely to succeed on the merits of their claim that Defendants have unlawfully exercised monopsony power in the market for premier stock car racing teams in the United States in violation of Section 2 of the Sherman Antitrust Act, 15 U.S.C. § 2. Defendants' anticompetitive conduct has ensured that NASCAR operates the only premier stock car racing series in the United States (the "Cup Series"), and Defendants unlawfully exercise this monopsony power to exclude competition and injure Plaintiffs and other stock car racing teams by forcing them to simultaneously accept anticompetitive contract terms and release any antitrust claims against Defendants in the "Charter Agreement" contracts that racing teams must sign in exchange for guaranteed access to Cup Series races and associated revenue streams.

5. In the absence of a preliminary injunction, Plaintiffs will face several irreparable harms, including the risk of losing their antitrust rights, sponsors, drivers, industry goodwill, and irreplaceable competitive opportunities. Plaintiffs' lost revenue, to the extent it can be measured, will total tens of millions of dollars per year, which threatens the very existence of their businesses.

6. The facts and equities demonstrate that the threatened injuries to Plaintiffs, including either a complete loss of their antitrust rights or a threat to their very existence, far outweigh any alleged “harm” that Defendants may suffer, which is limited to having to defend their antitrust violations without asserting a coerced and anticompetitive release as a purported defense, if this Court issues a preliminary injunction.

7. The issuance of a preliminary will serve the public’s interest in preventing a party from enforcing anticompetitive practices.

8. Plaintiffs have attempted in good faith to confer with Defendants to resolve this matter. Counsel for Plaintiffs conferred with counsel for Defendants via telephone on October 8, 2024, but the parties were unable to resolve any disagreements related to Plaintiffs’ requested preliminary injunction. Defendants noted that their clients are located in Daytona, Florida and not reachable currently due to the hurricane’s impact on business operations.

9. WHEREFORE, Plaintiffs hereby respectfully request that this Honorable Court grant the following preliminary relief:

- a. Defendants and their agents, servants, employees, attorneys, and all persons in active concert or participation with Defendants, shall grant two NASCAR Cup Series Charter Member Agreements to 23XI Racing with the same terms as the NASCAR Cup Series Charter Member Agreements that NASCAR offered to 23XI on September 6, 2024;
- b. Defendants and their agents, servants, employees, attorneys, and all persons in active concert or participation with Defendants, shall grant two NASCAR Cup Series Charter Member Agreements to Front Row Motorsports with the

same terms as the NASCAR Cup Series Charter Member Agreements that NASCAR offered to Front Row Motorsports on September 6, 2024; and

- c. Defendants and their agents, servants, employees, attorneys, and all persons in active concert or participation with Defendants, shall be enjoined from enforcing Section 10.3 of any NASCAR Cup Series Charter Member Agreement that is granted, or transferred (pursuant to the pending transactions with Stewart-Haas Racing, LLC), to either Plaintiff as a defense to any antitrust claim that either Plaintiff is pursuing in this action.

Dated: October 9, 2024

Respectfully submitted,

WINSTON & STRAWN LLP

By: /s/ Jeffrey L. Kessler

Jeffrey L. Kessler

WINSTON & STRAWN LLP

200 Park Avenue

New York, NY 10166

Tel: (212) 294-6700

Fax: (212) 294-4700

jkessler@winston.com

Danielle T. Williams

WINSTON & STRAWN LLP

300 South Tryon Street

16th Floor

Charlotte, NC 28202

Tel: (704) 350-7700

Fax: (704) 350-7800

dwilliams@winston.com

Jeanifer Parsigian

Michael Toomey

WINSTON & STRAWN LLP

101 California Street

San Francisco, CA 94111

Tel: (415) 591-1000
Fax: (415) 591-1400
jparsigian@winston.com
mtoomey@winston.com

Matthew R. DalSanto
WINSTON & STRAWN LLP
35 W. Wacker Drive
Chicago, IL 60601
Tel: (312) 558-5600
Fax: (312) 558-5700
mdalsanto@winston.com

*Counsel for Plaintiffs 2311 Racing LLC d/b/a
23XI Racing and Front Row Motorsports Inc.*

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION** was electronically filed using the Court's CM/ECF system, which will automatically send notice of this filing to counsel of record for all parties, including:

Tricia Wilson Magee
Shumaker Loop & Kendrick, LLP
101 S. Tryon St., Suite 2200
Charlotte, NC 28280
tmagee@shumaker.com

Counsel for Defendants National Association for Stock Car Auto Racing, LLC and James France

Jeffrey L. Kessler
Jeffrey L. Kessler